

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

William T. Sagmiller,	)	
	)	
Plaintiff,	)	<b>ORDER ADOPTING REPORT AND RECOMMENDATION</b>
	)	
vs.	)	
	)	
Catholic Diocese of Bismarck, Bishop	)	
Paul A. Zipfel, Saint Joseph Catholic Church,	)	Case No. 1:09-cv-081
Saint Joseph Catholic School, Sisters of Saint	)	
Benedict, osb, Father A.J. Galowitsch, and	)	
Father Frank,	)	
	)	
Defendants.	)	

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On December 7, 2009, the plaintiff, William Sagmiller, filed a pro se complaint in federal district court against the Catholic Diocese of Bismarck, Bishop Paul A. Zipfel, Saint Joseph Catholic Church, Saint Joseph Catholic School, Sisters of Saint Benedict, osb, Father A.J. Galowitsch, and Father Frank. See Docket No. 1. On March 1, 2010, Sagmiller filed a supplement to the complaint wherein he requested that Father A.J. Galowitsch be removed as a Defendant because he is deceased. See Docket No. 8. On March 30, 2010, the parties filed a stipulation to dismiss the Catholic Diocese of Bismarck, Bishop Paul A. Zipfel, and the “Church of St. Joseph – Mandan” (Saint Joseph Catholic Church and Saint Joseph Catholic School) which was adopted by the Court on March 31, 2010. See Docket Nos. 11 and 13.

On April 12, 2010, Magistrate Judge Charles S. Miller, Jr. conducted a review of the record and filed a Report and Recommendation. See Docket No. 15. Judge Miller recommended that Sagmiller’s action be dismissed without prejudice against the remaining Defendants – Sisters of Saint Benedict, osb, Father A.J. Galowitsch, and Father Frank. Judge Miller states,

Plaintiff has voluntarily withdrawn his claims against A.J. Galowitsch. Further, there is nothing in the record to indicate that the Sisters of Saint Benedict and Father Frank have been served with a copy of [the] complaint. Finally, based upon statements made by Plaintiff in the supplemental pleading on March 1, 2010, and statements made by the parties during their status conference, it would appear that Father Frank is deceased.

See Docket No. 15. Sagmiller was given fourteen (14) days to file an objection to the Report and

Recommendation. Sagmiller did not file an objection.

The Court has carefully reviewed the Report and Recommendation, relevant case law, and the entire record and finds the Report and Recommendation to be persuasive. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 15) in its entirety and **DISMISSES** Sagmiller's complaint (Docket No. 1) **WITHOUT PREJUDICE** as to the remaining Defendants in the action – Sisters of Saint Benedict, osb, Father A.J. Galowitsch, and Father Frank.

**IT IS SO ORDERED.**

Dated this 11th day of May, 2010.

/s/ Daniel L. Hovland

Daniel L. Hovland, District Judge  
United States District Court